

HOUSE BILL NO. 742

INTRODUCED BY BUZZAS, HARRIS, DICKENSON, GUTSCHE, WISEMAN, HENRY, MUSGROVE,
KAUFMANN, RASER, HAMILTON, ROBERTS, FRANKLIN, DOWELL, A. OLSON, HINER, LAMBERT,
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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE ATTORNEY GENERAL TO ESTABLISH AND
MAINTAIN A HEALTH CARE DECLARATION REGISTRY FOR DECLARATIONS RELATING TO THE USE OF
LIFE-SUSTAINING TREATMENT; ESTABLISHING METHODS FOR FILING DECLARATIONS AND FOR
ACCESSING THE REGISTRY BY CERTAIN PERSONS AND HEALTH CARE PROVIDERS; ~~AND~~ PROVIDING
AN APPROPRIATION TO BE USED IN ESTABLISHING AND MAINTAINING THE REGISTRY; AND
PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Health care declaration registry -- website -- rulemaking. (1) The
attorney general shall establish and maintain a health care declaration registry.

(2) The registry must be accessible through a website maintained by the attorney general.

(3) The registry must be used to store declarations pertaining to life-sustaining treatment made pursuant
to 50-9-103 that are filed with the attorney general.

(4) The registry must be maintained in a secure database that is designed to provide authorized health
care providers with immediate access to the registry at all times.

(5) The attorney general may adopt rules to implement the creation and maintenance of a health care
declaration registry and for the creation and maintenance of the statewide education and outreach program
created in [section 5].

**NEW SECTION. Section 2. Health care declaration registry filing provisions -- special revenue
fund -- failure to file declaration or notify of revocation -- duty of health care providers to access registry.**

(1) An individual or a person designated by the individual may file with the attorney general, for entry into the
health care declaration registry, a declaration provided for in 50-9-103 that pertains to life-sustaining treatment.

(2) (a) The attorney general may accept gifts, grants, donations, bequests, and other forms of voluntary

1 contributions to support, promote, and maintain the registry.

2 (b) There is a health care declaration account in the state special revenue fund. Money received
3 pursuant to subsection (2)(a) and any money transferred from the general fund to the health care declaration
4 registry must be deposited in the account and must be used by the attorney general to create and maintain the
5 health care declaration registry and to create and maintain an education and outreach program for the public
6 regarding advance health care planning and end-of-life health care decisionmaking.

7 (3) (a) Failure to file the declaration with the attorney general does not affect the validity of the
8 declaration.

9 (b) Failure to notify the attorney general of a revocation of the declaration made pursuant to 50-9-104,
10 does not affect the validity of the revocation.

11 (4) A health care provider is not required to access the registry in order to determine if a qualified patient
12 has filed a declaration with the attorney general.

13
14 **NEW SECTION. Section 3. Entry of declaration into health care declaration registry -- removal**
15 **of declaration.** (1) Upon receipt of a declaration pertaining to life-sustaining treatment, the attorney general shall
16 determine if the declaration is in compliance with the provisions of 50-9-103. If the declaration is not in
17 compliance with the provisions of 50-9-103, the attorney general shall return the declaration together with a
18 statement that the declaration was not filed due to its nonconformance with the requirements of 50-9-103.

19 (2) (a) If a declaration is accepted for filing, the attorney general shall create a digital copy of the
20 declaration and enter it into the database of the health care declaration registry.

21 (b) The attorney general shall assign a unique access code to each individual who files a declaration
22 that may be used by that individual or by a health care provider in a case in which the individual becomes a
23 qualified patient to access the registry to view the filed declaration.

24 (c) (i) After entering the digital copy of the declaration in the registry, the attorney general shall return
25 to the individual filing the declaration the original declaration along with two wallet-sized cards that indicate that
26 a copy of the declaration exists in the registry and that the name and access code on the cards may be used
27 to access the registry to view an electronic copy of the declaration.

28 (ii) (A) In addition to the materials provided to an individual filing a declaration under subsection (2)(c)(i),
29 the attorney general shall include a form asking the individual filing the declaration to indicate on the form the
30 privacy level that the individual desires with respect to accessing the declaration and asking the individual to

1 return the form to the attorney general.

2 (B) An individual shall choose between two privacy levels. The standard privacy level allows access
3 by the individual filing the declaration, appropriate health care providers, anyone with the name and access
4 code, and anyone with the social security number, birth date, and mother's maiden name of the individual who
5 filed the declaration. The higher privacy level allows access only by the individual filing the declaration,
6 appropriate health care providers, and anyone with the name and access code. If a form indicating a choice of
7 privacy level is not returned to the attorney general, the attorney general shall use the standard privacy level in
8 determining access to a declaration.

9 (3) If the attorney general receives a notice of the revocation of a declaration that is contained in the
10 health care declaration registry or is notified that a person who is the subject of a declaration filed in the registry
11 is deceased, the attorney general shall remove that declaration from the registry.

12
13 **NEW SECTION. Section 4. Registry information -- confidentiality -- transfer of information.** (1)

14 The health care declaration registry must be designed to be accessible only by entering a name and access
15 code on the internet website maintained by the attorney general or by the use of a password issued pursuant
16 to subsection (3).

17 (2) Names and access codes are confidential and may not be disclosed to any person other than the
18 person who submitted the declaration, a person named in the declaration, or a health care provider for whom
19 the person named in the declaration is a qualified patient.

20 (3) (a) The attorney general shall issue confidential passwords to attending physicians, attending
21 advanced practice registered nurses, and hospital medical records department staff that allow them to search
22 the health care declaration database for a qualified patient who is unable to communicate health care choices.

23 (b) The attorney general shall establish by rule procedures for applying for and the issuance of
24 confidential passwords to those persons described in subsection (3)(a).

25 (4) At the request of a person who submitted a declaration or who is named in the declaration, the
26 attorney general may transmit the information received regarding the declaration to the registry system of
27 another jurisdiction as identified by the requestor.

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29 **NEW SECTION. Section 5. Statewide education and outreach program.** (1) The attorney general
30 shall design, maintain, and administer a public education and outreach program to be conducted throughout the

1 state pertaining to advance health care planning and end-of-life health care decisionmaking.

2 (2) The program must be designed to:

3 (a) increase the public's awareness of the importance of planning for end-of-life health care;

4 (b) improve the public's understanding of the various health situations that an individual may face if the
5 individual is unable to express the individual's health care wishes; and

6 (c) explain the need for readily available legal documents that express an individual's health care wishes.

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8 **NEW SECTION. Section 6. Appropriation.** There is appropriated ~~\$100,000~~ \$80,000 from the general
9 fund to the attorney general for the biennium ending June 30, 2007, for the health care declaration registry and
10 a related public education program.

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12 **NEW SECTION. Section 7. Codification instruction.** [Sections 1 through 5] are intended to be
13 codified as an integral part of Title 50, chapter 9, and the provisions of Title 50, chapter 9, apply to [sections 1
14 through 5].

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16 **NEW SECTION. SECTION 8. EFFECTIVE DATE.** [THIS ACT] IS EFFECTIVE JULY 1, 2005.

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